

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 IO-15 SSO-00 NSCE-00 USIE-00 INRE-00

AF-10 EB-11 COME-00 JUSE-00 DOTE-00 DRC-01 /058 W

----- 024207

O R 051434Z OCT 73

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 8738

INFO USUN NEW YORK IMMEDIATE 390

USCINCSO

PAN CANAL

AMEMBASSY SANTIAGO

UNCLAS PANAMA 5414

EO 11652: N/A

TAGS: PN USUN PFOR CI

SUBJ: FOREIGN MINISTRY COMMUNIQUE ON DETENTION OF
CUBAN SHIP

REF: BLACKEN/HOWARD TELCON OCT. 5

USUN FOR KUBISCH

1. SUMMARY. COMMUNIQUE ISSUED BY PANAMANIAN MINISTRY OF FOREIGN
RELATIONS OCTOBER 4 APPEARED IN PANAMA CITY NEWSPAPERS MORNING
OCTOBER 5. COMMUNIQUE ACCUSES U.S. OF VIOLATING INTERNATIONAL
LAW BY DETAINING A SHIP BEING OPERATED BY ANOTHER SOVERIGN
STATE. IT ALSO ALLEGED THAT THE U.S. HAD EXCEEDED ITS RIGHTS
CONCERNING THE CANAL WHICH WERE LIMITED TO THE PURPOSES
RELATED DIRECTLY TO THE CANAL. END SUMMARY.

2. INFORMAL TRANSLATION OF COMMUNIQUE FOLLOWS:

"THE FOREIGN MINISTRY OF THE REPUBLIC OF PANAMA HAS LEARNED
THAT THE AUTHORITIES OF THE GOVERNMENT OF THE UNITED STATES
TRIED TO STOP THE SHIP "MARBLE ISLAND" WHICH WAS SAILING
UNDER A SOMALI FLAG AND CHARTERED BY THE CUBAN GOVERNMENT ON
OCTOBER 1 OF THIS YEAR, AND THAT ON OCTOBER 2 THEY DETAINED THE
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SHIP "EL IMIAS" WHICH IS OWNED BY THE CUBAN GOVERNMENT, IN

THE WATERS OF GATUN LAKE AS A RESULT OF A LEGAL ACTION FILED BY CERTAIN CHILEAN ENTERPRISES IN A U.S. FEDERAL COURT.

"IT IS A UNIVERSAL PRINCIPLE OF PUBLIC INTERNATIONAL LAW THAT PUBLIC FOREIGN VESSELS ARE EXEMPT FROM LOCAL JURISDICTION AND THEREFORE ENJOY IMMUNITY. THIS IS A GENERAL PRINCIPLE OF FRIENDLY AND COOPERATIVE RELATIONS BETWEEN STATES WHOSE APPLICATION EXTENDS TO SHIPS WHICH ARE STATE OWNED AND EVEN TO PRIVATE VESSELS CHARTERED BY A STATE AND THE VIOLATION OF THIS PRINCIPLE GOES AGAINST THE FUNDAMENTAL NORMS OF INTERNATIONAL LAW. SHIPS OPERATED BY A CUBAN STATE AGENCY FALL UNDER THIS CATEGORY AND THEREFORE ARE NOT SUBJECT TO THE JURISDICTION OF THE UNITED STATES, WHICH ONLY HAS LIMITED RIGHTS CONNECTED WITH THE CANAL'S SPECIFIC PURPOSE, AND THEY SHOULD NOT BE DETAINED.

"EVENTS OF THIS KIND UNDOUBTEDLY WORRY ALL THOSE WHO USE THE PANAMA CANAL, AS THEIR ACCESS TO THE WATERWAY MAY BE INVALIDATED, AND CONFIRM THE FOREIGN MINISTRY'S REASONS FOR STATING AT THE UN GENERAL ASSEMBLY, WHILE REFERRING TO THE CANAL ZONE, THAT THE JURISDICTION WHICH THE REPUBLIC OF PANAMA DEMANDS AS AN APPROPRIATE EXPRESSION OF ITS TERRITORIAL SOVEREIGNTY CONTAINS IN ITSELF THE HIGHEST GUARANTEE THAT THE MARITIME ROUTE WILL CONTINUE TO SERVE THE NEEDS OF INTERNATIONAL TRADE AND TRANSIT AND THE PRESERVATION OF PEACE AND WORLD SECURITY."FOR THE GOVERNMENT OF THE REPUBLIC OF PANAMA, WHICH HAS A PRIMORDIAL INTEREST IN THE CONTINUOUS, SECURE, AND EFFICIENT OPERATION OF THE INTEROCEANIC WATERWAY, THE DETENTION BY U.S. AUTHORITIES OF PUBLIC FOREIGN VESSELS IN TRANSIT THROUGH THE CANAL ASSUMES EXTREMELY SERIOUS PROPORTIONS. FOR THAT REASON, IT CONSIDERS THAT ACTIONS WHICH VIOLATE THE IMMUNITY OF PUBLIC FOREIGN VESSELS AND ARE CONTRARY TO THE INTERNATIONAL RULES AGREED ON FOR THE PANAMA CANAL - RULES WHICH STIPULATE THAT THE WATERWAY WILL BE OPEN FOR NAVIGATION BY MERCHANT AND WAR VESSELS OF ALL NATIONS UNDER CONDITIONS OF COMPLETE EQUALITY - SHOULD BE AVOIDED. IT ALSO NOTES THAT SUCH ACTIONS, WHICH DISRUPT GOOD RELATIONS BETWEEN STATES, ARE APART FROM THE NORMAL MANAGEMENT AND OPERATION OF THE CANAL, AND IT EXPRESSES ITS PROTEST AND COMPLETE DISAGREEMENT WITH THESE ACTIONS."

3. COMMENT. WE NOTE THAT GOP IN 1972 REQUESTED USG TO NOTIFY IT
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WHENEVER SHIPS SEIZED IN CZ WATERS WERE TO BE AUCTIONED SO THAT GOP COULD FILE CLAIMS IN EVENT SHIPOWNERS OWED MONEY TO GOP. PANAMANIAN'S THEREFORE, HAD PREVIOUSLY TAKEN OFFICIAL NOTE OF PRACTICE OF SEIZING SHIPS IN CZ WATERS AS RESULT OF CIVIL SUIT AGAINST SHIP OR OWNERS AND HAD NOT PROTESTED THIS PRACTICE. IN FACT, BY FILING FOR CLAIMS, GOP IN A SENSE HAD PARTICIPATED IN PROCESS.

DANIELS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SHIP DETENTION, INTERNATIONAL CANALS
Control Number: n/a
Copy: SINGLE
Draft Date: 05 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973PANAMA05414
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: PANAMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731047/aaaabiui.tel
Line Count: 115
Locator: TEXT ON-LINE
Office: ACTION ARA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: BLACKEN/HOWARD TELCON OCT. 5
Review Action: RELEASED, APPROVED
Review Authority: kelleyw0
Review Comment: n/a
Review Content Flags:
Review Date: 30 NOV 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30-Nov-2001 by chappeld>; APPROVED <26 FEB 2002 by kelleyw0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FOREIGN MINISTRY COMMUNIQUE ON DETENTION OF CUBAN SHIP
TAGS: PFOR, PN, US, CU
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005